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| PRE-APPEAL BRIEF REQUEST FOR REVIEW | | Docket Number (Optional) | |
|---|--|----------------------------|--|
| | | 2005M015 | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____ | Application Number | Filed | |
| | 10/591,733 | June 6, 2007 | |
| | First Named Inventor | | |
| | Raphael F. Caers | | |
| | Art Unit | Examiner | |
| | 1624 | Ebenezer O. Sackey | |
| Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. | | | |
| This request is being filed with a notice of appeal. | | | |
| The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided. | | | |
| I am the | | | |
| <input type="checkbox"/> | applicant/inventor. | /Leandro Arechederra, III/ | |
| | | Signature | |
| <input type="checkbox"/> | assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) | Leandro Arechederra, III | |
| | | Typed or printed name | |
| <input checked="" type="checkbox"/> | attorney or agent of record. Registration number 52,457 | (281) 834-0599 | |
| | | Telephone number | |
| <input type="checkbox"/> | attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 | December 21, 2010 | |
| | | Date | |
| NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*. | | | |
| <input type="checkbox"/> *Total of _____ forms are submitted. | | | |

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No. : 10/591,733 Confirmation No.: 1727
Applicants : Raphael F. CAERS *et al.*
Filed : June 6, 2007
TC/A.U. : 1624
Title : *Process for Hydroformylation of Propylene*
Examiner : Ebenezer O. SACKY
Docket No. : 2005M015
Customer No. : 23455 Date: December 21, 2010

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COMMISSIONER FOR PATENTS
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Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the Final Office Action dated October 26, 2010, Applicants respectfully file this Pre-Appeal Brief Request for Review and a Notice of Appeal along with the authorization to Pay the Requisite Fee.

REMARKS

Reconsideration of the application is respectfully requested.

Claims 1-44 are pending. Claim 1 was amended in Applicants' sole reply of August 26, 2010 in response to the Non-Final Office Action of May 26, 2010. Subsequently to the reply previously referenced, the Office issued a Final Action of October 26, 2010.

THE OFFICE ERRED IN MAINTAINING ITS REJECTION UNDER 35 USC § 103

Claims 1-44 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,583,324 to Takai *et al.* (herein "Takai"). Applicants respectfully disagree and submit that a proper *prima facie* case of obviousness has not been established. In particular, it is clear error to disregard the claim elements (a) - (c) recited in the pending claims as the Actions have done and as discussed in more detail in Applicants' Reply (**See Reply of August 26, 2010, pages 8-9**). Indeed, the Actions do nothing more than assert that somewhere in more than eighty pages of disclosure (a) - (c) may be found.

Additionally, the Actions do not reconcile the fundamental misunderstanding regarding the references to sulfur, nitrogen, and chlorine. In particular, the passages that the Actions cite with reference to sulfur, nitrogen, and chlorine are in reference to building ligands for the catalyst not what type of sulfur, nitrogen, or chlorine compounds may be tolerated or found in the olefin feed. (**See Reply of August 26, 2010, page 9, second paragraph**). Once sulfur, nitrogen, and chlorine are incorporated into the ligand structure of the catalyst as in Takai, it will not be able to hinder the active site of the catalyst as it is chemically bonded in a catalyst ligand, according to the Applicants' understanding of the passages in light of well-accepted chemical principles. In contrast, catalyst poisons such as nitriles and mercaptans are free in the feed and will inhibit the active site or otherwise hinder catalyst life.¹ As such, given the great differences,

¹ Applicants note that dependent claims such as, for example, claims 3-29, 38, and 39 are limited to sulphur, nitrogen, and chlorine content in the feed not catalysts or catalyst components. This argument has never been rebutted or even addressed by the Office and, thus, further supports Applicants' contention of clear error.

in substance and number, between Takai and the subject claims, Applicants' respectfully submit that a *prima facie* case of obviousness has not been established.

Applicants respectfully request that the rejection be withdrawn and solicit a prompt notice of allowability. In the alternative, Applicants invite the Office to telephone the undersigned attorney if there are any other issues outstanding which have not been presented to the Office's satisfaction.

If necessary to affect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to affect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket No.: 2005M015).

Respectfully submitted,

December 21, 2010

Date

/Leandro Arechederra,III/

Leandro Arechederra
Attorney for Applicants
Registration No. 52,457

Post Office Address (to which correspondence is to be sent):

ExxonMobil Chemical Company
Law Technology Department
P.O. Box 2149
Baytown, Texas 77522-2149
Phone: (281) 834-0599
Fax: (281) 834-2495

Attachment